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Watson, Ruth (2000) Murder and the political body in early colonial Ibadan. *Africa: Journal of the International African Institute* 70 (1), pp. 25-48. ISSN 0001-9720.

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MURDER AND THE POLITICAL BODY IN EARLY COLONIAL IBADAN

Ruth Watson

On 8 November 1902 *Baale* Mosaderin and ten Ibadan chiefs passed judgement on three men found guilty of murder. They considered them 'worthy of death' but recommended that a fine should 'be inflicted' on two of the perpetrators, and the third imprisoned. Dr Arthur Pickels, an Assistant Colonial Surgeon serving as Acting British Resident in Ibadan, thought the sentence too lenient and urged the chiefs to reconsider. The council responded by raising the fines imposed on each of the convicted from £50 to £75. Pickels questioned their decision once again. Balogun Apanpa rose as spokesman and stated:

The Council considered that a heavy fine was a greater punishment than death and would act as greater deterrent in future. If people think that they will only be killed if convicted of murder they will not think much of it.¹

The following day Pickels forwarded the trial notes to his superiors in Lagos. He wrote that although he felt the sentence was inadequate, 'taking into consideration that I believe they [the accused] have only been the instruments of a higher authority I think that perhaps terms of imprisonment would meet the case.'² The Attorney General, Edwin Speed, gave his opinion on 12 November: 'The Balogun's assertion that a heavy fine is considered a worse punishment than death is difficult to believe, though his statement that it is not the custom to execute powerful murderers is credible enough.'³

Speed admitted his own personal judgement was that two of the men, Salako and Aderuntan, should be liable to the death penalty. However, considering Pickels's view, he wrote that ten years' imprisonment was acceptable. For the third, Menasara, he recommended five years' imprisonment.⁴ Governor MacGregor agreed that a fine was 'quite inadequate' and concurred that the sentences suggested by Speed should be imposed as the 'least punishment'.⁵ Two weeks later, Acting Resident Pickels requested a warrant for the removal of the prisoners from Ibadan to Lagos.⁶ The Ibadan chiefs never received payment of the £150 fine.

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¹ Nigerian National Archives, Ibadan (hereafter NAI), CSO 16/4 C.87/1902, 'Notes taken at the trial of Salako, Menasara and Aderuntan before the Ibadan Council on November 8th 1902'.

² NAI, CSO 16/4 C.87/1902, Pickles to Reeve, 9 November 1902.

³ *Ibid.*, Speed to Reeve, 12 November 1902.

⁴ *Ibid.*

⁵ NAI, CSO 16/4 C.87/1902, MacGregor to Reeve, 19 November 1902.

⁶ *Ibid.*, Pickles to Reeve, 1 December 1902.

The trial of Salako, Aderuntan and Menasara provides a view of political culture in early colonial Ibadan. If one looks at the case closely, it becomes evident that debate about the homicide was embedded within a constitutional area of chieftaincy. Only within this arena does *Balogun Apanpa's* claim 'that a heavy fine was a greater punishment than death' become comprehensible. However, before investigating the murder, it is necessary to set the scene.

IBADAN IN THE NINETEENTH CENTURY

Ibadan was occupied as a war camp about 1829 by a group of people whom the historian, the Rev. Samuel Johnson characterised as 'a composite band of marauders'.⁷ The occupation occurred amidst a violent upheaval which engulfed the region, today known as 'Yorubaland' in south-western Nigeria, for most of the nineteenth century.⁸ Following the collapse of the old Oyo empire, refugees flooded the area and personal security was at a premium. In this context of unrest, the organisation of the Ibadan polity came to be centred upon the success of the 'marauders' in settling groups of people in large military households.

When the missionary David Hinderer visited Ibadan in 1851 he estimated its population at 60,000 to 100,000 residents.⁹ Towards the end of the century, Assistant Colonial Secretary Alvan Millson described the city as the 'London of Negroland' and suggested that 'at least 120,000 people' lived there.¹⁰ In addition to farming, Millson identified slave raiding as the main occupation of inhabitants. Emphasising that forays were undertaken to acquire slaves for domestic purposes, Millson made reference to Ibadan's bellicose society, where control over people was militarily and politically vital. This internal demand also related to the city's agricultural base, since slaves were generally put to work on the farms surrounding the settlement.¹¹ It was an arrangement which enabled the city to feed itself, despite being constantly at war with neighbouring polities. As Johnson wrote, 'a military state though Ibadan was, food was actually cheaper there than in many other towns.'¹²

The particular circumstances of Ibadan's founding encouraged the development of a military system of city government. Achieving success on the battlefield and, relatedly, amassing a body of followers enabled a

⁷ Johnson (1921: 224).

⁸ The process by which the name 'Yoruba' (originally a Hausa word for the Oyo) was expanded to apply to a mass of people with related dialects and cultures is detailed in Peel (1989).

⁹ Yoruba Mission, Church Missionary Society Papers, University of Birmingham (hereafter CMSB), CA2/049/104, David Hinderer, 'Journey and visit to Ibadan, a Yoruba town two days' journey from Abeokuta', Quarterly Journal extract, 23 October 1851.

¹⁰ Millson (1891: 583).

¹¹ *Ibid.*, p. 578.

¹² Johnson (1921: 325).

warrior to generate *ola*, or 'social honour'.¹³ This attribute had to be displayed before an Ibadan citizen could claim a chieftaincy title. As Barber writes of Yoruba self-realisation more generally, 'The individual built up a position for himself by recruiting supporters, his "people" . . . Their gaze conferred authority. Their acknowledgement confirmed status.'¹⁴

By the 1850s the male chieftaincy lines were those of the *Balogun*, *Seriki*, and *Baale*, while the female line was headed by the *Iyalode*. No titles were hereditary or royal. Junior male posts were taken by *ologun* ('brave warriors') who then competed for promotion to a higher position on their line or to another line altogether. The *Iyalode* was a successful female trader who also involved herself in Ibadan war campaigns. She supplied her fellow chiefs with credit to purchase firearms and ammunition and contributed her own corps of armed slaves to military expeditions.¹⁵ If the female chief lost her prominent economic status, another, more wealthy woman could usurp her title.¹⁶ The *Balogun* led the senior military men on war campaigns, accompanied by the *Seriki* and his subordinates, who were less experienced soldiers. Another junior military office was that of the *Sarumi*, the chief of the cavalry. The *Baale* was a war veteran who had distinguished himself in battle; once installed, he did not usually leave the town. Several scholars have asserted that his chiefs were a 'civil line' of retired soldiers.¹⁷ However, Johnson observed *Baale* chiefs as active participants in military expeditions.¹⁸

Johnson also draws attention to the intense rivalry of Ibadan politics, narrating several lurid tales of warrior chiefs' practices of intrigue, betrayal and suicide.¹⁹ Hinderer commented that 'the jealousy of the principal men of the place seems not at present to admit of the election of a man invested with the power to rule'.²⁰ Contemporary oral histories of Ibadan compounds nearly always recount episodes of political conspiracy that were mounted against one or more of their past leaders, by military households vying for a more dominant position in the city.²¹ As a phrase of Ibadan praise poetry, or *oriki*, puts it, 'No one comes to earth without some disease; civil disorder is the disease of

¹³ On 'social honour' see Weber (1948).

¹⁴ Barber (1995: 213).

¹⁵ Awe (1977: 151).

¹⁶ Efunsetan took over from Subuola by this means during the late 1860s (Johnson, 1921: 392).

¹⁷ Awe (1967: 19); Falola (1985a: 108); Jenkins (1965: 48); Fayola and Oguntomisin (1984: 49–50).

¹⁸ Johnson (1921): see descriptions of *Ajiya Baale* Abayomi, p. 323, pp. 343–4, p. 358–9, p. 366, pp. 370–1, and of *Orun Baale* Sumala, p. 358.

¹⁹ *Ibid.* Among others, see accounts of *Are-ona-kakanfo* Lakanle (pp. 256–7) and *Foko* Aiyejenku (pp. 407–10).

²⁰ CMSB, CA2/049/103, Hinderer Journal, 7 June 1851.

²¹ Many oral histories consist solely of such episodes, narrated one after the other. For example, Chief Akanbi, *Lagunna Balogun* (Mogaji Oluyole), interviewed 14 February 1996, Ibadan; Chief Oyewole, *Jagun Olubadan* (Mogaji Foko), interviewed 28 January 1996, Ibadan.

Ibadan.²² Such 'civil disorder' characterised political life both within and outwith the city.

Existing historiography on nineteenth-century Ibadan has tended to view the intense power rivalries of the city's politics as related to the regional instability which influenced the growth and political rise of the military state. Scholars like Akintoye, Awe and Falola have documented how Ibadan chiefs pursued their own imperial policy in defiance of the *Alaafin* of Oyo from the 1860s, so that by the mid-1870s they claimed jurisdiction over towns almost 200 miles east of their base.²³ Yet, although there is certainly evidence of expansionism, there are also indications that the imperial vision of the chiefs was by no means coherent. On several occasions, sections of the army literally refused to go into battle. For example, Johnson described their reluctance to launch a campaign against Ilesha in 1867: 'Not from any love of Ilesha or fear of its almost impregnable forts, but rather that titles should be rearranged so that they might have promotions.'²⁴

Awe rates military preparedness as the defining feature of Ibadan political culture and presents civil disorder as an outcome of the general context of warfare.²⁵ When she refers to intrigues or suicides she describes them as isolated incidents which resulted from the misguided rule of particular chiefs.²⁶ Similarly, Falola does not investigate Ibadan political crises in any detail, although he does suggest that chiefs sometimes went to war to further their political careers.²⁷ Thus, despite their awareness of the centrality of warfare to the politics of chieftaincy, Awe and Falola maintain Ibadan's external relations as their central focus.

The Ibadan political community was constituted in part through its imperial relations and military interaction with other polities. State formation actually occurred on the battlefield, where competing warrior chiefs and their followers transformed their rival military households into the 'Ibadan army'. Collective warfare was a practical way to win greater spoils; it was more effective than numerous raiding bands. Describing a campaign against the Ekiti in 1874, Johnson wrote, 'The Ibadans made an easy conquest of the whole district. Men, women and children were captured without the slightest attempt at resistance. So many were the captives and so much the booty, that the campaign appeared more like a promenade.'²⁸ There were also longer-term benefits—the inhabitants of defeated towns were forced to pay tribute to Ibadan chiefs.

When a successful military expedition was concluded, the army carried their booty in triumph to Ibadan. They came back with a

²² *Aki wa aiye ki a ma l'arun kan lara; ija igboro larun Ibadan*. See Awe (1967: 16).

²³ See Awe (1964); Falola (1984); Akintoye (1971).

²⁴ Johnson (1921: 378).

²⁵ Awe (1964: 120).

²⁶ *Ibid.*, p. 255.

²⁷ Falola (1984: 194).

²⁸ Johnson (1921: 391).

collective idea of their military power and its success when focused on meeting the economic and political needs of the city. As war spoils were dispersed among the various households, chiefs sought to exert this idea of power over their own people and those of their rivals in their contest for chieftaincy titles. Johnson presented these contests as a constituent practice of Ibadan political life, setting out a regular pattern in his epic narrative of Yoruba history: Ibadan chiefs embarked on a military campaign; they returned; they intrigued; they went to war again. Awe and Falola overlooked this pattern and established a false dichotomy between external and internal Ibadan politics, treating the latter as less important. Yet Ibadan's infamous 'civil disorder' was not simply a reflection of the external political climate. It was a struggle for control over a civic community that had been both imagined and experienced on the battlefield.²⁹

In August 1893 the Ibadan chiefs were coerced into signing a treaty which ended regional warfare and incorporated their polity into the British Empire. By December, Captain Bower had stationed himself on the eastern outskirts of the city, together with a Hausa force of the Governor's constabulary. According to Johnson's report, a common question heard in the city throughout the following year was '*Nje Bower k'oni si ogun Ilorin yi fun wa?*' 'Will not Captain Bower open an Ilorin campaign for us?' To be at home with nothing to do was rather irksome for those whose trade was war.³⁰

The historian I. B. Akinyele suggested that the warrior chiefs and soldiers viewed the Ibadan Agreement as a momentary respite from the battlefield, allowing time to prepare for a vigorous expedition.³¹ Thus *Balogun* Akintola, who assumed his title less than two months before signing the 1893 treaty, twice rejected the *Baale* office. However, shortly after his second refusal, in 1897, his military ambitions were quashed with the defeat of Ilorin by the forces of the Royal Niger Company. Later that year F. C. Fuller, Ibadan's second British Resident, suggested that 'since the pacification of Ilorin is assured' another Resident should be appointed to 'overhaul' the eastern portion of the former Ibadan empire.³² Although this was not done, the British victory over Ilorin was significant in sealing the fate of Ibadan militarism. The city's chiefs would never again go into battle, and without war spoils they had to find alternative means to meet their expenses and maintain their followings. With no opportunity to prove themselves in warfare, the strategy for attaining promotion in the chieftaincy ranks was unclear. Most fundamentally, the actual process of making Ibadan a civic community was undermined because the forum of the battlefield was gone.

²⁹ See Watson (1999: 5-26).

³⁰ *Ibid.*, p. 643.

³¹ Akinyele (1959: 122).

³² NAI, Iba. Prof. 3/6, Fuller, The Resident's Travelling Journal (hereafter Resident's Journal), 5 July 1897.

To explore how Ibadan chiefs responded and adapted to this changed political environment, this article describes a murder trial which took place in the early colonial period. It will first investigate the social background of the victim and the political context of his homicide, as well as pre-colonial practices of criminal justice. It then uses court testimony to reconstruct a narrative of the murder incident and events immediately afterwards. The account uses notes taken by a clerk in the courtroom where the trial took place. The notes are in English, but it is important to realise that the language of the trial would have been Yoruba, apart from the interventions of the British Resident and his interpreter. Thus using these records as a source of 'historical reconstruction' is inherently problematic. Furthermore, as Rathbone points out, court transcripts are 'cold documents' and they do not enable us to see the demeanour of witnesses or feel the atmosphere of the courtroom.³³

Consequently I do not reconstruct the murder case for the purpose of determining the guilt or innocence of those accused of the crime. My interest is in a constitutional issue that, I argue, informed the way the trial was played out. Recognising this constitutional issue enables us to comprehend better *Balogun Apanpa's* assertion, 'If people think they will only be killed if convicted of murder they will not think much of it.'

CHIEFS AND THIEVES, 1898–1902

The murder victim was a cowherd called Salu who had come to Ibadan as a runaway slave from Abeokuta, although he was originally from Ilorin.³⁴ Two of the accused and two witnesses at the 1902 trial referred to him as a *Gambari*.³⁵ By this term he was placed in a particular category of people who were described in 1899 as 'belonging to any tribe beyond the Niger'.³⁶ More specifically, he was Hausa—a group who had been in Ibadan since the 1840s and were among its earliest non-Oyo settlers. They were first accommodated by *Basorun Oluyole*, a warrior chief who owned extensive kola-nut plantations in and around the town.³⁷ The Hausa rapidly established themselves as middlemen in a trading exchange of cattle and kola nut between the northern savanna and southern forest zones.³⁸

When military raids were stopped in 1894 many Ibadan soldiers suffered material deprivation, and the economic success of Hausa settlers became increasingly resented. From about 1896 they were the

³³ Rathbone (1989: 450). See also Rathbone (1993).

³⁴ NAI, CSO 16/4 C.87/1902, 'Evidence taken before the Ag. Resident and Bale's Messenger at the Advisory Court Ibadan in the case of the murder of a Cowherd, Salu by name, on Sunday Oct 5th 1902', Igana statement, 13 October 1902.

³⁵ *Ibid.*, Sumanu statement, 13 October 1902; Aderuntan, Salako, Babalola statements, 14 October 1902.

³⁶ NAI, Iba. Prof. 3/6, Fuller, Resident's Journal, 21 January 1899.

³⁷ Morgan (n.d.: 86).

³⁸ This trade still exists today. See Cohen (1969).

target of hostility. Opposition to their presence in Ibadan focused on their monopoly of the kola-nut trade, their association with the Governor's constabulary and their criminal activities. A rumour enjoining Ibadan people to kill any Hausa suspected of stealing began to circulate.³⁹ As we shall see, it seems this rumour still had currency in 1902.

Resident Fuller intervened during July 1897. He demanded that *Gambari* must deposit their weapons and proposed 'to issue permits to those *Gambaris* who can satisfy me that they are here for the pursuit of an honest trade'.⁴⁰ In spite of this effort, over the next few years many *Gambari* became 'a great trouble' by involving themselves in 'raiding and pillaging'.⁴¹ As Falola has noted, this was part of a general rise in the prevalence of robbery in Ibadan during the 1890s. Since the livelihood of war could no longer be depended upon, some warrior chiefs turned to brigandage in the city as an economically rewarding venture.⁴² They co-operated with the Hausa troops, who assisted by sheltering the thieves in their barracks.⁴³

In June 1898 a council meeting addressed the crime problem:

The Bale brought up the subject of robberies with violence of which there have been many nowadays. The *Gambaris* are the worst offenders. They were expelled a short time ago but most have returned. I suggested they should form a sort of police for each district of the town & promised condign punishment for any malefactor brought. They asked if they might defend themselves against a burglar who threatened them & were told they might.⁴⁴

A month later *Osi Balogun* Kongi was accused of sponsoring the thieving gangs. Kongi was a distinguished and successful warrior, having been appointed *Areago Balogun* as far back as 1879.⁴⁵ In 1898 Acting Resident Ehrhardt reported, 'The Bale is trying to hush the case up.' *Balogun* Akintola, who had been arrested and imprisoned by Captain Bower during 1894, did not support *Baale* Fajinmi's attempt to do so. He stated 'that he had been in the guardroom twice & he thought this chief [Kongi] should experience it'.⁴⁶ The chiefs met to judge Kongi early the next week.

He was found guilty of harbouring *Gambaris*, in contravention of the rule of the Council & the order of the Bale & was fined £50—£30 to go in compensation. The chiefs were pleased that he had not been publicly disgraced. I told them that if it had been proved that he participated in the *Gambaris* plunder or was cognisant of their robberies he would have been

³⁹ Falola (1985b: 65).

⁴⁰ NAI, Iba. Prof. 3/6, Fuller, Resident's Journal, 24 July 1897.

⁴¹ NAI, Iba. Prof. 3/6, Ehrhardt, Resident's Journal, 13, 14, 16 May, 6 June, 16 August, 23 November 1898; Fuller 20, 21 January 1899.

⁴² Falola (1986: 86).

⁴³ Cohen (1969: 103–13) argues that 'Hausa Thieves' have remained a 'structural factor' in Ibadan ethnic politics throughout the twentieth century.

⁴⁴ NAI, Iba. Prof. 3/6, Ehrhardt, Resident's Journal, 6 June 1898.

⁴⁵ Johnson (1921: 438).

⁴⁶ NAI, Iba. Prof. 3/6, Ehrhardt, Resident's Journal, 23 July 1898.

deposed & sent to the prison. The Bale expressed his gratitude freely & stated that in future his orders would be readily obeyed.⁴⁷

There is little doubt that Kongi was directly involved in the robbery incidents. His *oriki* refer to the raids he made, which were carried out on horseback and with a retinue of drummers singing his praises.⁴⁸ Having previously proved his battle merit, Kongi brought the practice of winning war spoils right into Ibadan city, embodying his political status through thuggery and display of the large numbers of followers supporting him. The other chiefs most likely shared in the material rewards of his city raids; this would explain their reluctance to see him 'publicly disgraced'.

Four years later the political climate had changed. When *Basorun* Fajinmi died in April 1902 his title became vacant.⁴⁹ Kongi maintained that, even though he had not led the Ibadan army into the field, he was eligible for promotion from *Balogun*: 'He said it was folly to entertain the hope that the white men would go away and war will ensue. Kongi met with the united opposition of the whole Chiefs'.⁵⁰ This was the first time since the 1897 defeat of Ilorin that the *Baale* post had become available in Ibadan. The absence of external war had already caused one military title, that of the *Sarumi*, to become redundant.⁵¹ *Balogun* Akintola had died in 1899 without ever having consolidated his authority through battle victories.⁵² *Balogun* Kongi was unwilling to risk his own status being demeaned and thus refused to forfeit the *Baale* office.

The warrior chiefs, especially *Otun Balogun* Apanpa, opposed Kongi's claim. Apanpa pointed out that no *Balogun* had ever become the *Baale* and therefore Kongi 'had no right to be one'.⁵³ Although the four *Baale* installed during the nineteenth century had been *Balogun* chiefs, they had not reached the highest rank of their line. They were able to succeed immediately to the *Baale* post because their seniors had been killed in battle.⁵⁴ By contrast, two of the most powerful chiefs of the 1860s and 1870s, Ogunmola and Latosisa, set a precedent for Apanpa's case. Before assuming the posts of *Basorun* and *Are-ona-kakanfo* respectively they had both been *Otun Balogun*.

Neither Apanpa nor Kongi were successful in their bids to become *Baale*. Promoting Apanpa over Kongi could generate a conflict liable to

⁴⁷ *Ibid.*, 26 July 1898.

⁴⁸ Akinyele (1959: 133).

⁴⁹ Fajinmi was installed *baale* in 1897 and took the Oyo title of *basorun* in 1900 (Akinyele, 1946: 14).

⁵⁰ *Ibid.*, p. 16.

⁵¹ No chiefs were installed to this rank after 1893.

⁵² NAI, Iba. Prof. 3/6, Ehrhardt, Resident's Journal, 6 February 1899.

⁵³ Akinyele (1946: 16).

⁵⁴ *Baale* Opeagbe succeeded from *osi balogun* to *baale* in 1850. *Osi* was the second chief under the *balogun*. Both *Baale* Olugbode (1851) and *Baale* Fijabi (1893) were promoted from *abese balogun*. In 1851 *abese* was the sixth title in the line; by 1893 it was the seventh. This was because of the addition of the fourth-ranking post of *asipa* in 1865. Orowusi was *asipa balogun* before becoming *baale* in 1870.

destroy Ibadan altogether. Installing Kongi might enable him to extend his enterprise of robbery and extortion. Instead *Otun Baale* Mosaderin was elected. According to Resident Elgee, he was 'an invalid owing to the ill effects produced by over ten gunshot wounds which he had received in the wars of his youth. In consequence of this he [was] never able to take a conspicuous part in public affairs.'⁵⁵ The Ibadan chiefs probably elected him *because* of his age and frailty. In this way they ensured that their *Baale* would not become too powerful.

By contrast, Kongi remained 'the strongest and most influential chief in Ibadan.'⁵⁶ According to Akinyele, 'the whole chiefs' rose to depose him by charging him with four offences: that he was harbouring robbers; that he had been insubordinate to both *Basorun* Fajinmi and *Baale* Mosaderin; that he had poisoned *Basorun* Fajinmi; that he 'was wicked, merciless and proud'.⁵⁷ On 2 September 1902 Acting Governor Harley Moseley approved Kongi's expulsion to Fesu Iwo, the birthplace of his grandfather, Ogunmola. As Resident Elgee put it, 'He never returned alive.'⁵⁸

Subsequently Apanpa was promoted to *Balogun*.⁵⁹ The post of *Osi Balogun* was given as a first title to Akintayo, the head of *ile* Awanibaku. Interestingly, *ile* Awanibaku was a household which had previously paid allegiance to *ile* Ogunmola, the compound formerly headed by Kongi. *Osi Balogun* was an exceptionally high title for a first installation, which suggests that Akintayo played a role in Kongi's political downfall.⁶⁰

Custom and punishment

Amid these political manoeuvres, burglaries remained frequent in Ibadan. Resident Elgee recalled that in 1900:

The Bashorun asked permission to continue the ancient custom of cutting off the right hand for the first theft, the left for the second, and the feet for the third, if any. The Resident unfortunately could not see his way to grant this as it might be interpreted as being against the clause of the Ibadan Treaty, which stipulated that they should do no act not in accordance with the ordinary principles of humanity.⁶¹

There was in fact no such 'clause' in the 1893 Ibadan Agreement. Elgee probably referred to a letter written to the Ibadan chiefs by Acting Governor Denton the day before they signed the treaty. This letter assured the chiefs that the Resident to be stationed in Ibadan 'will not as at present proposed hold any court or take any action opposed to

⁵⁵ Rhodes House Library, Oxford (hereafter Rhodes House, Mss. Afr. S.1169, E. H. Elgee, 'The Evolution of Ibadan', typescript, p. 23. This text was published by the Lagos Government Printer in 1914, following Elgee's departure from Ibadan the previous year.

⁵⁶ *Ibid.*, p. 16.

⁵⁷ Akinyele (1946: 16-17).

⁵⁸ Rhodes House, Mss. Afr. S.1169, Elgee, 'Evolution', p. 16.

⁵⁹ Akinyele (1946: 20, 28).

⁶⁰ *Ibid.*, pp. 21, 63-4. See also Johnson (1921: 373).

⁶¹ Rhodes House, Mss. Afr. S.1169: Elgee, 'Evolution', p. 12.

local customs and observances so long as they do not conflict with the ordinary principles of humanity'.⁶²

As Jenkins points out, the British defined these 'principles'.⁶³ Consequently, it was this assurance that later enabled colonial administrators to overrule chiefs' verdicts in certain cases, especially those which involved domestic slavery or allegations of witchcraft.⁶⁴ In 1900 'some trouble was caused by the chiefs executing two supposed murderers without permission. This led to a visit from Acting Governor Denton and the Bashorun was fined £100.'⁶⁵ It was after this incident that Fajinmi referred to the 'ancient custom' of maiming criminals. Since he rejected the practice as inhumane, Acting Resident Ehrhardt set about implementing his earlier proposal for the formation of a district police.⁶⁶ The town was divided into quarters and 'gangs of night watchmen' were stationed to guard particular areas.⁶⁷

It is questionable whether the 'ancient custom' described by *Basorun* Fajinmi had ever been comprehensively enforced in Ibadan. Fajinmi's claim appears to make a link with the practice of Islamic law, but the *Basorun* was not himself Muslim. It seems more likely that his assertion was a pragmatic appropriation of a system of jurisprudence, an appropriation which aimed to deter the increasing judicial interventions of the colonial authorities.⁶⁸ Three Ibadan chiefs in the nineteenth century—*Baale* Opeagbe, *Osi Balogun* Osundina and *Are* Latosisa—were Muslim. However, by 1900 only a small proportion of the Ibadan population had converted and it was not until the rule of *Baale* Situ (a son of *Are* Latosisa) between 1914 and 1925 that large numbers of Ibadan people became Muslim.⁶⁹

Available evidence about pre-colonial judicial practice in Ibadan suggests that it focused on negotiating hotly contested property rights and interests. Samuel Layode was a local Ibadan teenager during 1895; he reports that it was then the practice for thieves to be executed. 'His head would be cut off and nailed to a certain tree in Iba Oluyole market.'⁷⁰ Robert Oyeboode, an Ibadan-born clergyman, described an

⁶² Johnson (1921: 639).

⁶³ Jenkins (1965: 162).

⁶⁴ Throughout 1898 and 1899 Residents Fuller and Ehrhardt refer to 'hearing cases' but do not usually provide details. When they do, slaves or 'juju' are usually mentioned. See NAI, Iba. Prof. 3/6: Resident's Journal, 10 May, 9 June, 2, 5, 21–2 July, 17, 23 August, 27, 29 October, 26 November 1898; 2, 9 February, 14 March 1899.

⁶⁵ Rhodes House, Mss. Afr. S.1169, Elgee, 'Evolution', p. 11.

⁶⁶ NAI, Iba. Prof. 3/6, Ehrhardt, Resident's Journal, 6 June 1898.

⁶⁷ Rhodes House, Mss. Afr. S.1169, Elgee, 'Evolution', p. 12.

⁶⁸ Johnson (1921: 326–7) describes a change in inheritance law in Ibadan during 1858 which appears similarly related to pragmatic considerations.

⁶⁹ See Gbadamosi (1978). The growth of Islam in Ibadan under *Baale* Situ was frequently referred to in my interviews with chiefs during 1995–96.

⁷⁰ Samuel Layode, 'Rebirth of Ibadan Town History'. Samuel Layode (c. 1880–1965) was a son of 'Daddy Daniel Layode', a lay preacher in the Ibadan CMS Kudeti station. His unpublished manuscript of Ibadan history, preserved by Professor Bolanle Awe, is an invaluable and hitherto unused source. I am extremely grateful to Professor Awe for allowing me access to the document.

1877 criminal case which involved two hunters responsible for protecting the town walls. At that time the Egba had imposed a blockade of trade routes to Ibadan and, although goods continued to be smuggled in, there was a serious salt shortage. Whilst on duty, one of the hunters had bartered 'a load of yam flour for an equivalent in salt'. His accomplice had then exchanged 'a load of corn for the same salt with the Egbas'.⁷¹

This salt was intended for the Ibadan market; thus the second transaction was considered a theft. Oyeode implied that the case was heard by the Ibadan chiefs at Oja'ba: 'A man was killed in the market for the master [of the] corn matter.'⁷² Nevertheless, this did not resolve the problem. 'The town men are not pacified, saying he who has two slaves to give may kill a freeborn with impunity.'⁷³ This suggests that the townspeople contested the judgement, arguing that the 'master' did not have the right to kill his follower without surrendering two of his slaves.⁷⁴

A similar form of punishment was the confiscation of people and material goods from a household. This practice was always threatened and sometimes practised against chiefs who had become unpopular.⁷⁵ According to Akinyele, it also applied to criminal offences:

If anyone in a compound offended, the offence might be great or small, the principal Chiefs like the Bale or the Balogun or the Council of Chiefs would order the plundering or devastation of the offender's compound, i.e. men, women and children met in the compound would be taken as captives and sold into slavery . . . every thing in the house would be taken; clothes, cattle, domestic utensils & c., all would be carried away never to be restored. Hundreds of houses were thus devastated and became desolate.⁷⁶

These descriptions indicate that, in pre-colonial Ibadan, convicted felons were more likely to be killed or impoverished than disabled. If their victims were to be satisfied, some form of material compensation had to be arranged. Since maimed people were less valuable than healthy people, discipline via disablement would appear unsatisfactory to both sides. There is no mention of such an 'ancient custom' in Johnson's text; he also describes execution, fining or plunder as the usual punishment.⁷⁷

In early colonial Ibadan the threat of local crime erupting into a full-scale uprising plagued the minds of British administrators. During May

⁷¹ Kenneth Dike Library, University of Ibadan, I. B. Akinyele Papers, Diary of Robert Oyeode, 24 September 1877.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ The meaning of this phrase is confusing. In my view the context suggests that Oyeode meant to write 'may not kill a freeborn'. This interpretation explains why 'the town men' were unpacified. Nonetheless, whatever the precise meaning, my point is that maintaining was not used as a punishment and that 'whole people' were considered exchangeable goods.

⁷⁵ *Foko* Aiyejenku suffered this punishment before eventually committing suicide. See Johnson (1921: 409).

⁷⁶ Akinyele (1946: 70).

⁷⁷ Johnson (1921: 322, 373-76, 501-2).

1901 Acting Resident Rice reported that there was a 'great deal of unrest in the town and talking against the white-man'. He requested the Officer in Charge of the Hausa constabulary 'to take any steps' necessary for equipping the force and to ensure an ample supply of ammunition.⁷⁸ Ibadan no doubt remained a dangerous place to live in 1902.

*Robbery, homicide and diplomacy*⁷⁹

Early on the morning of 5 October 1902 Salu left his wife, Rehia, a seller of 'knick-knacks'. He told her he was 'going in search of a cow' and had £10 'tied in his apron.'⁸⁰ Shortly afterwards Salu met Talo, another cowherd with whom he worked; he informed him that he had £10. Talo later asserted that this was not unusual: 'Salu always carried his money with him. I warned him about it on Saturday Oct 4.'⁸¹ This warning was appropriate, given that in the early twentieth century £10 was an enormous sum of money for one person to have, even if he worked in the cattle trade.

At 6.30 a.m. Salu was arrested. Arewa, a 'sale collector' who witnessed the arrest, testified that it was carried out by two men accompanied by 'several women'.⁸² Salu was taken to the compound of Akingbinle, who was a farmer:

I was lying near the fire suffering from Guinea worm. It was quite day when I heard the cry Thief! The noise I heard got nearer and I crawled to the front piazza. In a few moments I saw Aderuntan and Salako and they brought Salu in. I asked Salako and Aderuntan if Salu was the thief and they said yes. Salu said he was a native of Ilorin & a boy under the Otun Bale of Ibadan. Salu said he was looking for his cow, he was not a thief.⁸³

Babalola, a *babalawo* or priest of the *Ifa* divination system, was present in Akingbinle's compound at the time Salu was brought in. When Salu protested, Babalola alleged he heard Salako say, 'You are a thief, a few days ago you came to steal Aderuntan's property & you thief you will not allow people to sleep at night.'⁸⁴ At that moment, Akingbinle testified, he:

Told Salako and Aderuntan to let Salu alone because he said he was Otun Bale's man. Salako & Aderuntan said they would go with him to find his cow.

⁷⁸ NAI, CSO 16/3 C.34/1901, Rice to Moseley, 8 May 1901.

⁷⁹ In my reconstruction of Salu's murder and events immediately afterwards I have relied mostly on the first set of fourteen statements collected by Resident Pickels on 13 and 14 October 1902. I refer to these statements as 'Evidence taken'. For reasons that are discussed later, Pickels was forced to give the case a second hearing on 8 November and every witness gave another statement. These statements were less detailed but contained no significant factual differences. They are referred to as 'Notes taken'. Both sets of statements are contained in NAI, CSO 16/4 C.87/1902.

⁸⁰ Rehia statement, 13 October 1902, 'Evidence taken'.

⁸¹ Talo statement, 13 October 1902, 'Evidence taken'.

⁸² Arewa statement, 13 October 1902, 'Evidence taken'. Arewa was most likely a toll collector for one of the Ibadan chiefs.

⁸³ Akingbinle statement, 14 October 1902, 'Evidence taken'.

⁸⁴ Babalola statement, 14 October 1902, 'Evidence taken'.

I said let him alone, are you a cowherd? What business is it of yours? I dispersed the crowd & ordered Aderuntan & Salako to leave my compound.⁸⁵

Babalola confirmed that he had witnessed this exchange between Akingbinle and Salako. According to his testimony, however, 'Immediately after this another *Gambari* was arrested and brought before Akingbinle.'⁸⁶

The name of this *Gambari* was Sumanu. He had been going to his farm when he was stopped:

I don't know by whom but think one was of Akingbinle's boys as I saw the man helping to carry Akingbinle yesterday. I was tied up and taken to Salako's house and saw Salako, Aderuntan and Menasara and others. Salako asked why had they not killed me and asked if he had not given orders that all *Gambaris* arrested should be killed. The people then asked if they had to kill them if they arrested them in the daytime . . . The people who arrested me said, 'We have killed one! We have killed one!'⁸⁷

Sumanu's purse containing £1, his cutlass and three penknives were taken from him by the man he thought was 'Akingbinle's boy'. His possessions were never returned. Before he was taken to Salako's house he was severely beaten and his arm was broken. Afterwards he was taken to Akingbinle, but he claimed that he did not see Salu there.⁸⁸ According to Babalola, when Sumanu arrived in Akingbinle's compound, Salako and Aderuntan departed, promising 'to lead Salu to where his cow was'. After a few minutes Akingbinle asked Babalola to take Sumanu to *Baale Mosaderin*.⁸⁹

Curiously, Akingbinle's testimony did not mention Sumanu. He stated it was shortly after Salako and Aderuntan left that he 'heard whispering that Salu had been killed'.⁹⁰ About half an hour later, he maintained, Salako returned alone to his compound and informed him that Salu was looking for his cow. Next, Menasara, Salako's messenger, arrived. 'I heard Menasara say Salu was not quite dead. Salako and Menasara went out talking . . . I heard Salako tell Menasara to go and finish Salu. Aderuntan came by the back yard to my house when Salako returned, he did not talk at all.'⁹¹

Menasara's testimony corroborated Akingbinle's version of events. He stated he went to look for Salu with Aderuntan and two other men from Akingbinle's compound.⁹² One of them was another *babalawo* called Ige. In contrast to Akingbinle, Ige claimed that Aderuntan

⁸⁵ Akingbinle statement.

⁸⁶ Babalola statement.

⁸⁷ Sumanu statement, 13 October 1902, 'Evidence taken'. Falola (1985b: 65) has suggested that killing suspected Hausa thieves was 'a law which circulated as a rumour' from 1896.

⁸⁸ Sumanu statement.

⁸⁹ Babalola statement.

⁹⁰ Akingbinle statement.

⁹¹ *Ibid.*

⁹² Menasara statement, 13 October 1902, 'Evidence taken'.

returned to the compound in the company of Salako. Akingbinle asked them where Salu was and Salako replied, 'They led him wrong (which they meant they killed him).'⁹³ Ige testified that Abegunde, who had been ordered by Salako to 'remove the corpse of Salu', then took him (Ige) to *Igbo Igbale*.⁹⁴ When the four men found Salu, they discovered he was 'quite dead'.⁹⁵ Abegunde and Menasara 'moved the body a small distance'⁹⁶ while Aderuntan 'stood aloof'.⁹⁷ Ige declared that he 'refused to touch him [Salu] as it is against my principles to touch the dead'.⁹⁸ Menasara confirmed this, referring to Ige as 'far distant'.⁹⁹ He confessed, 'I inflicted two wounds on Salu but he was quite dead before I inflicted them.'¹⁰⁰

At the time Salu's corpse was being 'removed', Babalola was visiting two influential Ibadan chiefs. He testified that after leaving with Sumanu he went to *Baale* Mosaderin and from there to the barracks where the Hausa constabulary were stationed. It appears he left Sumanu there. Babalola returned to *Baale* Mosaderin once again and afterwards visited *Osi Balogun* Akintayo. On his return to Akingbinle's compound, he alleged, 'I was informed that Salu had been killed by Salako & Aderuntan.'¹⁰¹

Meanwhile, after he had witnessed Salu's arrest, Arewa went to Salu's house.¹⁰² He met Igana, a leather worker, and the two men went to Akingbinle's house. They were told that Salu had been taken to *Igbo Igbale*, 'a fetish place'. They went there and discovered Salu's corpse.¹⁰³ Arewa testified that he found the body 'by following a track of blood'.¹⁰⁴ Igana stated that Salu was 'quite naked' and the string which tied his apron, where he usually kept his money, had been cut.¹⁰⁵ Both Arewa and Igana swore that there was 'no money on the body'.¹⁰⁶ With the help of some other people, the two men carried Salu's corpse to Akingbinle's compound. They emphasised that none of the accused were among those who helped them carry the body.¹⁰⁷ Akingbinle confirmed their testimony:

One of Salu's relatives, I think was Igana, brought the corpse to my gate . . . I pointed out Aderuntan to the Resident's messengers as one of the murderers.

⁹³ Ige statement, 14 October 1902, 'Evidence taken'.

⁹⁴ *Ibid.* *Igbo igbale* means 'a grove where *egungun* (masquerades) appear'.

⁹⁵ Menasara statement.

⁹⁶ Ige statement.

⁹⁷ Menasara statement.

⁹⁸ Ige statement.

⁹⁹ Menasara statement.

¹⁰⁰ *Ibid.*

¹⁰¹ Babalola statement.

¹⁰² Arewa statement.

¹⁰³ Igana statement, 13 October 1902, 'Evidence taken'.

¹⁰⁴ Arewa statement.

¹⁰⁵ Igana statement.

¹⁰⁶ Igana and Arewa statements.

¹⁰⁷ *Ibid.*

I was arrested and taken to the barracks but released. Salako and Aderuntan led the messengers to where the body was found.¹⁰⁸

The diplomacy of death continued. Later that afternoon Babalola played a crucial intermediary role:

Akingbinle sent me to Salako to tell him that Otun Bale had sent a messenger to Akingbinle about Salu the man whom he (Salako) had killed and he must answer for it after being especially warned by Akingbinle. Salako said that he had been ordered that any thief who was arrested must be killed. Salako did not deny that he had killed Salu. He did not say anyone else had killed him. Salako then went to the Bale's house.¹⁰⁹

Osunbiri, *Baale* Mosaderin's messenger, confirmed that Salako had come to see the *Baale*.¹¹⁰

The next day, 6 October 1902, Salu's corpse was taken by Igana and Talo to the Hausa barracks.¹¹¹ Igana recalled, 'There were no more wounds than those I saw when I found the body. It was the same body I found at Igbo Igale.'¹¹² At the barracks Salu's corpse was given a post-mortem examination by Dr William Thomson, the Medical Officer stationed in Ibadan. He declared the body was 'apparently healthy and about 25 years of age' and established 'fracture of the skull' as the cause of death. In addition to four extremely severe head wounds, he described another which 'completely divided the femur'. He suggested that an instrument like a cutlass used with 'very considerable force' would have caused the injuries. With the exception of the wounds on the lower part of the head and on the thigh, he stated that all 'had the appearance of being inflicted before death'.¹¹³

According to the trial notes, Dr Thomson was the last person to see Salu's body. It is unclear what became of the corpse.

THE ADMINISTRATION OF JUSTICE

On 13 October 1902 Acting Resident Pickels charged Salako, Aderuntan and Menasara with murder. They pleaded not guilty. Over the next two days Pickels took statements from the accused and eleven witnesses, without the Ibadan chiefs being present. Their only representative was Osunbiri, *Baale* Mosaderin's messenger. On 17 October Pickels sent the statements to Henry Reeve, the Acting Colonial Secretary in Lagos. Naming the defendants, Pickels wrote:

I have no doubt in my mind that Akingbinle has very much more to do with it than he says but there is no evidence against him. Of the three men charged Salako is I think the chief man. Menasara I look upon more as a tool.¹¹⁴

¹⁰⁸ Akingbinle statement.

¹⁰⁹ *Ibid.*

¹¹⁰ Osunbiri statement, 14 October 1902, 'Evidence taken'.

¹¹¹ Igana statement; Talo statement.

¹¹² Igana statement.

¹¹³ Dr William Thomson statement, 14 October 1902, 'Evidence taken'.

¹¹⁴ NAI, CSO 16/5 C.87/1902; Pickels to Reeve, 17 October 1902.

Reeve forwarded the documents to the Attorney General, Edwin Speed, noting, 'These proceedings seem to be irregular. They should have been taken before the Native Council.'¹¹⁵ At that time the British Resident had no jurisdiction to adjudicate criminal cases between Ibadan citizens. Speed agreed with Reeve and ordered the murder case to be retried.¹¹⁶ Pickels duly arranged a second hearing before *Baale* Mosaderin and the ten other council chiefs on 8 November 1902.¹¹⁷

The defendants changed their pleas to guilty. This action appeared to surprise Pickels:

The Resident explained to the accused persons what the plea of Guilty meant and the results and asked them if they would care to reconsider their pleas. Each one however said he quite understood the matter and would hold to the plea of Guilty.¹¹⁸

After each witness had again presented an oral statement, Pickels asked the three men who had instructed them to kill Salu. Menasara repeated that Salako had ordered him 'to go and remove the man who was killed . . . [I] did not see the wounds inflicted before death but I inflicted wounds after death.' Both Salako and Aderuntan asserted that they were 'not ordered by anyone to kill Salu'.¹¹⁹

Subsequently Pickels asked the council chiefs to reach a verdict. After consultation, they 'unanimously agreed that all the prisoners were Guilty'. They sentenced Salako and Aderuntan to a £50 fine and proposed that Menasara should be imprisoned. In response, Acting Resident Pickels 'laid the facts before the Council again and considered the sentence was very mild for such a crime and was of the opinion that H.E. the Governor would think so.' The chiefs reconvened and chose to raise the fines by £25 each.¹²⁰

In part, this decision to impose a cash sentence was based on material needs. Once the external wars ended, administering justice was one of the few means by which the chiefs could generate income. They were not slow to exploit it. For example, in August 1898 *Baale* Fajinmi levied fines on the family of a man accused of killing his mother before he had actually tried the case. Acting Resident Ehrhardt intervened; he judged the man innocent and ordered Fajinmi to return the sum charged.¹²¹ The following month, Ehrhardt warned *Balogun* Akintola for trying a case 'which he should have sent to the Bale'. Akintola had previously been fined £5 'for similar conduct' by Resident Fuller. On his second 'offence' in September 1898 Ehrhardt threatened to charge him before the other chiefs.¹²² The *Balogun* must

¹¹⁵ *Ibid.*, Reeve to Speed, 22 October 1902.

¹¹⁶ *Ibid.*, Speed to Reeve, 24 October 1902.

¹¹⁷ *Ibid.*, Pickels to Reeve, 9 November 1902.

¹¹⁸ *Ibid.*, 'Notes taken'.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ NAI, Iba Prof. 3/6; Ehrhardt, Resident's Journal, 18 August 1898.

¹²² *Ibid.*, 8 September 1898.

have found it difficult to accept this rebuke when his predecessors had freely operated their own courts.

In October 1898 the perquisites associated with the administration of justice were exposed: 'I heard that the Bale & his messengers do not adhere to the fee of 5/- fixed for each case. The Bale first receives 10/-, the messengers demand 5/- each & then the applicant has to pay the 5/- authorised.'¹²³ The issue was raised at the next monthly council meeting:

Complaints had been made that the Bale exacted a private fee in addition to the one sanctioned. The Bale acknowledged but pleaded that these fees for deciding cases have always been the chief source of a Bale's income & with the small fee he could not meet his expenses. He was told that he must adhere to the fee sanctioned but it should be considered whether it could not be increased.¹²⁴

Ehrhardt proposed that the fees charged could vary on the scale similar to the English county court fees. He acknowledged that the *Baale's* messengers could receive a fee 'for service of summons' but suggested it should be regulated. He did not explain how it would be done.¹²⁵

Four years later, colonial officers had still not managed to eradicate such 'irregular payments' from Ibadan administration. When the Ibadan chiefs deposed and expelled *Balogun* Kongi in September 1902 they did so because he was becoming too powerful. As far as the British authorities were concerned, the city could not continue to accommodate a chief who was running his own court to rival that of the *Baale*.¹²⁶ Ibadan chieftaincy was fast developing into an institutionalised framework of revenue generation. Instead of going to the battlefield and returning with the spoils of war, the chiefs went to the courtroom to seek out their spoils of civic administration.

CASH-ON-PEOPLE, WEALTH-IN-PEOPLE

Court fees were not mentioned in the trial of Salako, Aderuntan and Menasara. However, apart from the issue of the cash sentence, another 'money question' is ever present throughout the trial notes. It is clear that Acting Resident Pickels intended to prove that Salu was killed for the £10 it was alleged he was carrying. Further, he sought to show that the cowherd's murder was part of an organised robbery operation, a highly lucrative business, given the value of the cash involved.

All the witnesses, with the exception of the *Baale's* messenger and Dr Thomson, made mention of Salu's money. Associates of Salu, such as his wife Reikia, his co-worker Talo and his living companion, Igana, emphasised that Salu must have had the £10 with him when he was

¹²³ *Ibid.*, 25 October 1898.

¹²⁴ *Ibid.*, 6 November 1898.

¹²⁵ *Ibid.*

¹²⁶ Tamuno (1972: 220).

arrested. Igana makes specific mention of Salu's apron being cut and states that he 'did not see any money'.¹²⁷ On the other hand, all those who interacted with Salu after his arrest routinely denied any knowledge whatsoever of the money. As Ige put it, 'They [Salako and Aderuntan] said nothing about money. I did not get any money.'¹²⁸ In the end, Pickels was forced to conclude, 'I can only consider these men are the tools of higher authorities but am unable to adduce any proof to that effect.'¹²⁹

It is not surprising that none of the witnesses would give any clue as to the whereabouts of the £10. To have done so would possibly have led to their prosecution. What does seem surprising, however, is the relative uninterest of most witnesses in the money. Instead, far more than Salu's money, it is *Salu's body* that catches their attention. This points us to the ideological basis of the cash sentence.

A turning point in Salu's homicide was his assertion that he was 'Otun Bale's man'. By saying this Salu gave his body a value. He named himself as among the followers supporting *Otun Baale Dada*. By implication, any threat to his body was also a threat to the body of the *Otun Baale*. Responding to this information, Akingbinle maintained that he 'told Salako and Aderuntan to let Salu alone because he said he was Otun Bale's man'.¹³⁰ Babalola's testimony confirmed, 'Akingbinle told Salako to let Salu alone as he was Otun Bale's man.'¹³¹ However, Salu was killed in spite of the warning. The result was a diplomatic crisis.

As the trial played out, rival witnesses competed to indemnify themselves from the cost of Salu's body and charge it in various ways to the accused. Significantly, the accused were specifically identified as 'not Otun Bale's men'.¹³² The attempt at self-indemnity is most explicit in Akingbinle's testimony:

Aderuntan came in then & I called him to see to the corpse saying you are responsible. Aderuntan said How is it? I have told you I have removed the corpse to a secret place. I said you are responsible, you know the cause of his death. I warned you not to touch the man. See to the body yourself.¹³³

Aderuntan himself admitted that Akingbinle had queried him 'Did I not tell you to be careful about this man?'¹³⁴ Another account put it thus: 'Akingbinle told Salako did I not warn you that if anything happened to Salu you would be responsible?'¹³⁵ According to Menasara, 'I was ordered by Salako . . . to go and finish Salu who was then not dead.'¹³⁶

¹²⁷ Igana statement.

¹²⁸ Ige statement.

¹²⁹ NAI, CSO 16/5 C.87/1902, Pickels to Reeve, 9 November 1902.

¹³⁰ Akingbinle statement.

¹³¹ Babalola statement.

¹³² Akingbinle statement.

¹³³ *Ibid.*

¹³⁴ Aderuntan statement.

¹³⁵ Adeyemika statement, 14 October 1902, 'Evidence taken'.

¹³⁶ Mensara statement.

He was exonerated by Akingbinle, who enlightened Pickels on Salako and Menasara's relationship. 'Menasara is Salako's slave. If a slave was ordered by his master to go and kill someone it would be his bounden duty to do it under penalty of any punishment the master likes to inflict.'¹³⁷ Finally, it was Babalola who communicated the demand of *Otun Baale* Dada that Salako 'must answer' for the death of his man.¹³⁸

At the conclusion of the trial the council chiefs ruled that justice would be done if Salako and Aderuntan were fined and Menasara imprisoned. Acting Resident Pickels 'could not agree with them'. *Balogun* Apanpa asserted himself as spokesman of the *Otun Baale* and the Ibadan council and explained to Pickels:

That the custom in olden times for murder cases was that the perpetrator should be put to death, his people sold and his house destroyed but that if the offender were a man of noble birth he was heavily fined and his people sold. . . . Salako's father was a man of high birth and had held a very influential position in the town & been highly respected and for this reason they pleaded for the son.¹³⁹

Salako was obviously the head of a prominent Ibadan household. Probably he was *Mogaji* Otun-Elesin. According to Akinyele: 'This was one of the minor houses; they usually held subtitles under the House of Ogunmola.'¹⁴⁰

Salako was most likely 'under' *Balogun* Kongi until September 1902, when the senior chief was expelled from Ibadan for 'harbouring robbers', among other offences.¹⁴¹ In 1898 these thieves had been specifically identified as *Gambari*, the group into which Salu was classified. Salu was killed only a month after Kongi's expulsion and, significantly, one witness states Salu *knew* all the accused.¹⁴² Another relevant fact is that *Osi Balogun* Akintayo replaced Kongi as the head of *ile* Ogunmola and he was one the chiefs involved in the flurry of diplomacy that ensued immediately after Salu's arrest.¹⁴³ Thus it seems credible to suggest that the murder of Salu was related to the deposition and deportation of *Balogun* Kongi.

Perhaps Salu was a *Gambari* formerly harboured by *Balogun* Kongi who had switched his allegiance to *Otun Baale* Dada, the head of another powerful military compound, *ile* Oderinlo. Interestingly, Dada was also a chief associated with organised crime. Layode reports that 'night robbers and burglary men infested the town' throughout Dada's rule as *Baale* from 1904 until 1907.¹⁴⁴ Although not conclusive, when combined this evidence is compelling. The murder of Salu placed rival

¹³⁷ Akingbinle statement.

¹³⁸ Babalola statement.

¹³⁹ *Balogun* Apanpa, 8 November 1902, 'Notes taken'.

¹⁴⁰ Akinyele (1946: 53-4). Salako is listed as the third *Mogaji* Otun-Elesin.

¹⁴¹ *Ibid.*, p. 16.

¹⁴² Talo statement.

¹⁴³ Babalola statement.

¹⁴⁴ Layode Mss.

chieftaincy lines in direct conflict with each other—the follower of a senior *Baale* chief had been killed by the head of a household under a senior *Balogun* chief. In the politics of early colonial Ibadan the *Baale* and *Balogun* chiefs were hotly contesting the procedure of promotion and, crucially, *ile* Ogunmola and *ile* Oderinlo were (and are) adjacent to each other. In 1902 they were opposed camps in a potential civil war.

Ibadan chiefs had a vested interest in keeping their households and their followings together. 'Wealth-in-people' enabled a chief to embody *ola* (social honour) and to express civic power in Ibadan city. After 1897, however, it was unclear how chiefs would continue to maintain and build up their entourage of supporters. The conquest of Ilorin marked the end of external warfare. This removed the collective experience of battle; simultaneously it became impossible for chiefs to augment their retinues with war captives. Curbs imposed on domestic slavery made it less feasible to exchange people in large numbers.¹⁴⁵ Consequently, chiefs competed among themselves for followers more intensely than before.

The cash fine which the Ibadan council imposed for the homicide related to this unstable social context. A decade earlier, it is unlikely that the death of a lowly follower would have been of great concern to the Ibadan warrior chiefs—retinues were replenished or increased by 'raiding expeditions'.¹⁴⁶ But in 1902 the murder of Salu represented, literally, a dead material loss for *Otun Baale Dada*; it had to be financially compensated. Witnesses thus endeavoured to disown any liability for Salu's body in the first hearing of the case. The weight of blame was placed on Salako, whose followers and slaves were probably involved in *Balogun* Kongi's thieving gangs.

Since Salako was 'under' a *Balogun* chief, *Balogun* Apanpa was compelled to speak for him. He declared that 'the custom' for men of 'noble birth' who were convicted of murder was punishment by a heavy fine and the confiscation of their people. Apanpa was Muslim, but his explanation of judicial practice in Ibadan was not a claim for 'blood money', which, according to Islamic law, would have been payable to *Otun Baale Dada*.¹⁴⁷ Rather, Apanpa was attempting to consolidate a particular form of political authority.

Describing criminal justice in the mid-nineteenth century, Johnson wrote, 'A private individual would be executed at once for murder, but a chief must commit suicide by any method he may prefer, for if executed publicly his house would be demolished and his family ruined.'¹⁴⁸ Samuel Layode offered a different account. He maintained that during 1888, when Ibadan was enduring a trade blockade imposed by the *Awujale* of Ijebu, several influential Ijebu traders were arrested

¹⁴⁵ NAI, Iba Prof. 3/6, Fuller, Resident's Journal, 4–5 July 1898, 2 February 1899.

¹⁴⁶ Johnson (1921: 321).

¹⁴⁷ I am grateful to Murray Last and Paulo Farias for their advice on this issue.

¹⁴⁸ *Ibid.*, p. 322.

throughout the town. They were accused of being thieves and fined 200 bags of cowries each.¹⁴⁹ Their leader was executed.

Layode alleges that, subsequently, this fine became the standard sentence 'for Big Offence in Ibadan town'.¹⁵⁰ Notably the amount was equivalent to £50; *Osi Balogun* Kongi paid this exact sum for his crimes in 1898. Layode also emphasised that 'If anyone died through action of any other man it was charged as manslaughter and the offender would be fined amount of fifty pounds.' Layode cites a 'common saying' as evidence for his assertion: *igba oke la ara emi*.¹⁵¹ This means 'Two hundred bags is the amount we pay for a body.'

In keeping with this practice, the Ibadan council originally proposed to fine Salako and Aderuntan £50 each. Furthermore, from the chiefs' point of view, it was dangerous to execute the head of an Ibadan compound in the city. Such a public admission of guilt would be a licence for civil disorder—it would sanction the right of Ibadan citizens to confiscate the goods and people of an entire household. During the early twentieth century, warrior chiefs feared this threat of political eradication more greatly than ever.

Given the prisoners' change of plea from innocent to guilty, it appears that the council chiefs had settled the case *before* the hearing on 8 November. Salu was ultimately valued at £150; Salako and Aderuntan were each to pay £75. The 'amount paid for a body' had tripled. This arrangement was a pragmatic compromise conceived by and within the straitened circumstances of colonial rule. It allocated revenue to the chiefs and it maintained the foundation of civil Ibadan power—a body of followers. The fines also offered scope for people to be valued differentially.¹⁵²

At the same time, because it was associated with a loss of 'social honour', or *ola*, the sentence embodied a moral censure. As *Balogun Apanpa* asserted, 'A heavy fine was a greater punishment than death and would act as a greater deterrent in future.' Consequently, *Menasara* had to be imprisoned rather than fined—as a slave he had minimal *ola* to lose. Finally, *Balogun Apanpa* concluded the council's judgement by endorsing chieftaincy as a legitimate constitutional form: 'The Bale and Chiefs understood the native views best and all were unanimous in considering that the sentence they recommended would be felt as more severe than death.'¹⁵³

Unfortunately for the Ibadan council, the British neither recognised nor understood their judicial logic. As Attorney General Speed frankly

¹⁴⁹ Johnson (1921: 118) explains the quantification of cowries as follows: forty cowries = one string; fifty strings = one head; ten heads = one bag. Therefore one bag = 20,000 cowries; 200 bags = 4 million cowries! When English coins were introduced, one bag was made equivalent to 5s.

¹⁵⁰ Layode Mss.

¹⁵¹ *Ibid.*

¹⁵² Guyer (1993: 204–24).

¹⁵³ NAI, CSO 16/5 C.87/1902; 'Notes taken'.

admitted, 'According to our ideas the sentence recommended is of course hopelessly inadequate.' Nonetheless, he perceptively observed, 'a powerful chief might be a very inconvenient person to execute.'¹⁵⁴ Governor MacGregor expressed himself thus: 'Cases of murder in the Ibadan District have been far from frequent of late and I look to the Native Council to maintain order. The chiefs . . . must understand that they are responsible for the people's safety.'¹⁵⁵ In order to fulfil this different moral imperative, the chiefs' sentence was overruled and the convicted felons were removed to prison in Lagos. Without a public execution, Ibadan townspeople had no justification to loot either *ile* Ogunmola or *ile* Oderinlo. Without a cash fine, Ibadan chiefs did not receive their city spoils. The political body of Salu was an unsettled account.¹⁵⁶

CONCLUSION

After the 1893 agreement Ibadan warrior chiefs continued their struggle to assert control over the civic community. Since they could not amass booty or prove military valour, it became difficult for them to maintain the material base of political mobilisation, that is, a body of followers. Crucially, this insecurity did not cause the social status of 'having people' to become less important. Instead it became the main criterion of appointment to a title. As Akinyele recalled, 'When the intertribal war was stopped by the British Government and Ibadan Division became a British Protectorate, the man who had influence and many followers competed for titles.'¹⁵⁷

In this situation the need for followers increased and, consequently, rivalries between chiefs to attract social acknowledgement also grew. Without the battlefield, the only site for this struggle was Ibadan itself. Followers became a city spoil rather than war spoil. For the chiefs, the trial of those accused of killing Salu was an opportunity to generate revenue whilst simultaneously sustaining their political authority. The sentence they handed down gave a follower's body an economic as well as a political value. It was also an effort to institutionalise compensation for that value in the event of loss. But it failed.

ACKNOWLEDGEMENTS

This paper was first presented at the UK biennial conference of the African Studies Association in September 1998. It has benefited greatly from the comments and criticisms of P. F. de Moraes Farias, Murray Last, J. D. Y. Peel and Gavin Williams. I am also grateful to other participants in the panel 'Murder in Colonial Africa' and to Richard Rathbone, who chaired the session.

¹⁵⁴ *Ibid.*, Speed to Reeve, 12 November 1902.

¹⁵⁵ *Ibid.*, MacGregor to Reeve, 19 November 1902.

¹⁵⁶ I borrow this phrase from Berry (1998).

¹⁵⁷ Akinyele (1946: 98).

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ABSTRACT

The article examines a murder trial in the Nigerian city of Ibadan during 1902. In the course of the trial a senior chief stated that those found guilty of the homicide should be fined, not executed, as a more severe punishment. The meaning of this statement is closely investigated in the context of the political climate in Ibadan at the time, of past judicial practices and through a reconstruction of the murder incident. It was argued that the assertion related to increasing competition between Ibadan chiefs and was an attempt to define constitutionally the economic and political value of a follower's body.

RÉSUMÉ

Cet article examine un procès pour meurtre dans la ville nigérienne d'Ibadan en 1902. Au cours de ce procès, un grand chef de la région a annoncé que les personnes déclarées coupables d'un homicide devaient s'acquitter d'une amende, et non être exécutées, en guise de peine plus sévère. La signification de cette déclaration est étudiée de près dans le contexte du climat politique qui régnait à cette époque à Ibadan et des anciens usages judiciaires, ainsi qu'à travers la reconstitution du crime. L'article soutient que cette déclaration avait un lien avec la concurrence croissante entre les chefs d'Ibadan et constituait une tentative de définir constitutionnellement la valeur économique et politique du corps d'un partisan.